

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11305 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LEGAL HEIRS OF LALLUBHAI

MORARJIBHAI PATEL

Versus

DEPUTY COLLECTOR

Appearance:

MR MA KHARADI for Petitioners

Mr A.G.Uraizee, AGP, M/S PURNANAND & CO for Respondents.

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 15/04/96

ORAL JUDGEMENT

The challenge in this petition under Article 226/227 of the Constitution is against the judgment and order passed by the Gujarat Revenue Tribunal on 20th August, 1993 in Revision Application No.TEN.BS.86/93 whereby the orders of the lower authorities came to be confirmed while dismissing the revision application preferred before it.

2. The revision application before the Gujarat Revenue Tribunal was filed under section 38 of the Gujarat Agricultural Land Ceiling Act, 1960 (Act) against the order of the Deputy Collector, Navsari in Ceiling Appeal No.2/93 dated 25.1.93, whereby, the appeal came to be dismissed by the Deputy Collector. The appeal before the Deputy Collector was filed against the order recorded by the Mamlatdar and ALT (Ceiling), Navsari, in Ceiling Case No.32/92/Remand dated 23.10.92. In short, the judgment and order of the Mamlatdar challenged in appeal and revision came to be confirmed.

3. The Mamlatdar and ALT in his judgment had decided that deceased Lalubhai Morarjibhai Patel was holding agricultural lands at village Katalpore, Tal: Navsari to the extent of 21 acre and 23.5 gunthas as on 24.1.71 comprised of several survey numbers. Out of the total holding, an area of 21 gunthas was considered to have been required for canal construction after 24.1.71 and therefore, the holding was considered to be 21 acres 02.5 gunthas as on 1.4.76. The said parcel of land required for canal purpose came to be deducted from the holding by the Tribunal in a remand order. After remand, again the matter went to the Mamlatdar from there to the Deputy Collector and from there revision before the Gujarat Revenue Tribunal. Pursuant to the remand order and directions, the question of classification of the land was also examined by the Mamlatdar and ALT in the remand proceedings. He, therefore, found upon fresh consideration that 3 acres and 33 gunthas of several survey numbers was seasonally irrigated and 16 acres 35.5 gunthas was superior dry crop land and 0.14 gunthas was jirayat land. He made conversion of seasonally irrigated land and superior dry crop land into jirayat equivalent which came to 33 acres and 13 gunthas. It was also found that the petitioners are not entitled to the benefit under section 6(3B) or section 6(3C) of the Act. With the result, one ceiling unit of 30 acres was considered available and 3 acre 13 gunthas came to be declared as surplus which was to be taken from survey No.145 Part admeasuring about 2 acres 9 gunthas. The impugned order of the Mamlatdar and ALT was recorded on 23.10.92. The said order came to be questioned in appeal which came to be dismissed and thereafter in revision which was also dismissed.

4. Survey No.145 is held to be superior dry crop land. Therefore, conversion into jirayat equivalent, it is calculated that 3 acres and 13.5 gunthas in jirayat terms is surplus area to be claimed from the land

holders. The land holder had not exercised any selection about the land to be surrendered in spite of sufficient opportunity given to them. With the result, the Mamlatdar has declared that 2 acres and 9 gunthas in physical terms to be taken from survey No.145 as surplus. The Deputy Collector, in his judgment, has carefully considered various aspects raised before him and he has also rightly confirmed the order of the Mamlatdar. So is the position of revision. Thus, the impugned orders which are concurrently and consistently recorded by the three authorities below are justified. There is no question of law requiring interference of this Court in a petition under Article 226/227 of the Constitution where the jurisdictional scope is very much circumscribed.

5. In the result, this petition is required to be dismissed. Accordingly, it is dismissed. Rule discharged. At this stage, learned advocate for the petitioner Mr Kharadi states that in order to pursue further remedies and to secure interim orders, which is likely to take some time, the interim relief granted earlier may be continued for a further period of six weeks. Having regard to the facts and circumstances, the request is accepted. The interim relief granted earlier shall be continued for six weeks.

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